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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/778,762	02/08/2001	Marcio Marc Abreu	P66081US1	4160

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EXAMINER
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NAJARIAN, LENA

ART UNIT	PAPER NUMBER
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3626

DATE MAILED: 10/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/778,762

Applicant(s)

ABREU, MARCIO MARC

Examiner

Lena Najarian

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-79 is/are pending in the application.
- 4a) Of the above claim(s) 1-65 and 74-76 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 66-73 and 77-79 is/are rejected.
- 7) ☒ Claim(s) 67 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 April 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 20010516
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claims 1-65 and 74-76 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to nonelected inventions, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 9/22/05.

### ***Oath/Declaration***

2. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not identify the mailing address of each inventor. A mailing address is an address at which an inventor customarily receives his or her mail and may be either a home or business address. The mailing address should include the ZIP Code designation. The mailing address may be provided in an application data sheet or a supplemental oath or declaration. See 37 CFR 1.63(c) and 37 CFR 1.76.

### ***Drawings***

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: Fig. 7 (page 35, line 10). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the

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application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

4. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because its length exceeds 150 words. Correction is required. See MPEP § 608.01(b).

### ***Claim Objections***

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5. Claim 67 is objected to because of the following informalities: "where said" in line 1 should be deleted. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 66-71 are rejected under 35 U.S.C. 102(e) as being anticipated by Suliman, JR et al. (US 2001/0053980 A1).

(A) Referring to claim 66, Suliman discloses a device for acquiring data comprising (para. 12 of Suliman):

means for acquiring data (Fig. 3 and para. 53 of Suliman);

a processor; and

a memory connected to the processor and storing a program for controlling operation of the processor (Fig. 1 and para. 11 of Suliman);

said processor operative with the program in the memory to receive user data, the data being product identification, determine if the data received interacts with products being stored in the memory, and display the interaction information (para. 64, para. 13, para. 38, and para. 39 of Suliman).

Insofar as the claim recites "at least one of," it is immaterial whether or not the other elements are also disclosed.

(B) Referring to claim 67, Suliman discloses means for transmitting data (para. 11 of Suliman).

(C) Referring to claim 68, Suliman discloses wherein the means for transmitting data includes a distributed computer network (Fig. 1 and para. 36 of Suliman).

(D) Referring to claim 69, Suliman discloses wherein the means for acquiring data includes a bar code reader (para. 53 of Suliman).

(E) Referring to claim 70, Suliman discloses in a system to monitor products purchased by a user in which an identification card having a code recorded thereon is applied as linking the products purchased to the user identified by the card to enable identification of the user as participating in a recall and warning notification program, the system comprising (para. 12 and para. 13 of Suliman):

a checkout station (para. 12 of Suliman);

an identification card having recorded thereon an identification code indicating the user as participating in the recall and warning notification program (para. 10 and para. 12 of Suliman);

a card reader at said checkout station and operated for reading the identification code indicating the user as participating in the recall and notification program (para. 45 of Suliman);

a data input device at said checkout station for inputting data representing the products being purchased by said user (Fig. 3 of Suliman);

a storage device for storing the data acquired at said checkout station (para. 42 of Suliman);

a communication device for transmitting the acquired data (para. 59 of Suliman);  
and

a display device for displaying the acquired data (para. 42 of Suliman).

(F) Referring to claim 71, Suliman discloses in a system to monitor products purchased by a user in which an identification card having a code recorded thereon is applied as linking the products purchased to the user identified by the card to enable identification of the user as participating in a recall and warning notification program, the system comprising (para. 12 and para. 13 of Suliman):

a checkout station (para. 12 of Suliman);

an identification card having recorded thereon an identification code indicating the user as participating in a recall and warning notification program (para. 10 and para. 12 of Suliman);

a data input device at said checkout station for inputting data representing the products being purchased by said user (Fig. 3 of Suliman); and

a card writer at said checkout station and operated for writing indicia onto the card representing the products purchased by said user (para. 45 of Suliman).

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8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 72 and 73 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suliman, JR et al. (US 2001/0053980 A1) in view of Ware (4,707,592).

(A) Referring to claims 72 and 73, Suliman does not expressly disclose wherein the identification code of said identification card is magnetically encoded on a magnetic stripe and wherein the identification code of said identification card is optically encoded as a bar code.

Ware discloses wherein the identification code of said identification card is magnetically encoded on a magnetic stripe and wherein the identification code of said identification card is optically encoded as a bar code (see col. 2, lines 31-40 of Ware).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the features of Ware within Suliman. The motivation for doing so would have been to provide a suitable type of encoding in order to verify the card-carrying person's identity (col. 2, lines 31-40 of Ware).

10. Claims 77-79 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suliman, JR et al. (US 2001/0053980 A1) in view of Moore (US 6,886,748 B1).

(A) Referring to claim 77, Suliman discloses an apparatus comprising:



a hand-held device for entering and storing product information data and consumer identifiers;

a data entering device for entry of data into said hand-held device;

a processor for identifying an interaction between product information and consumer identifiers; and

a display device (Fig. 3, para. 12, para. 13, para. 38, and para. 39 of Suliman).

Suliman does not disclose biometric data.

Moore discloses biometric data (see col. 7, lines 27-40 of Moore).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Moore within Suliman. The motivation for doing so would have been to authenticate user identities (col. 7, lines 30-40 of Moore).

(B) Referring to claim 78, Suliman discloses wherein said hand-held device includes a communication device for receiving and sending information from/to a communication device (see Fig. 1 of Suliman).

(C) Referring to claim 79, Suliman discloses wherein said data entering device includes a bar code reader (para. 53 of Suliman). Insofar as the claim recites "at least one of," it is immaterial whether or not the other elements are also disclosed.

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not applied prior art teaches systems and methods

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for point of purchase product registration (US 2001/0042022 A1); a portable RF ID tag and barcode reader (5,640,002); a system and method for providing shopping aids and incentives to customers through a computer network (6,014,634); a product warranty registration system and method (US 2001/0027401 A1); and merchandising using consumer information from surveys (US 6,233,564 B1).

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lena Najarian whose telephone number is 571-272-7072. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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